
BZA-1929
JOHN & TRUDI HATTER
Setback & Lot Coverage Variances

REVISED STAFF REPORT
April 16, 2015

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REQUEST MADE, PROPOSED USE, LOCATION:

Petitioners, who are also the property owners, represented by attorney Daniel Teder, are requesting the following two variances in order to construct a new house:

1. with a rear setback of 23.34' instead of the required 25' for a screened porch (UZO 4-2-2); and
 2. with a 34.05% lot coverage instead of the maximum 30% (UZO 2-1-6);
- on property located in Section 5 of Winding Creek Subdivision, more specifically 361 Augusta Lane, Tippecanoe 29 (NW) 24-4.

AREA ZONING PATTERNS:

The lot is zoned R1, Single-family Residential as is all surrounding property. Flood Plain zoning associated with Burnett's Creek, wraps around this section of Winding Creek Subdivision to the south and west. R1B zoning is in place farther to the east; across CR 600 to the north, zoning is Agricultural. The only other BZA activity in the area was a special exception and variance, both approved in 1998, for the adjacent golf course (BZA-1486 and 1491).

AREA LAND USE PATTERNS:

The unimproved lot in question is located on the south side of recently completed Augusta Lane, a cul-de-sac off of Augusta Blvd., the main road into the development. No other houses have been finished in Section 5 of Winding Creek; although there are houses scattered throughout the development to the west and farther to the south. Coyote Crossing Golf Course is immediately adjacent to the south and west of this lot.

TRAFFIC AND TRANSPORTATION:

Augusta Lane is classified as a local road. A driveway will be constructed leading to a three-car attached garage.

ENVIRONMENTAL AND UTILITY CONSIDERATIONS:

American Suburban Utilities and Indiana American Water serve these lots.

STAFF COMMENTS:

The proposed house is 3,411 square feet in size; the total area of the lot is 10,017 square feet. The footprint of the single-story house nearly covers the entire buildable area of the lot. The only portion of the proposed building that extends into the setback, and that by less than two feet, is the screened porch. Simply shrinking the size of the screened porch by two feet will eliminate the need for a rear setback variance.

A slightly smaller house, or a two-story house of the same square footage, could be built on this lot with no variance. Or petitioner's proposed house could be constructed on a larger lot within Section 5 of Winding Creek. (13 of the 19 lots within this section of Winding Creek are larger than 11,370 square feet which is the area needed for the proposed house to meet the 30% lot coverage cap.) The ordinance requirements are not the issue; the issue is a house that's too large being constructed on a lot that's too small.

Regarding the ballot items:

1. The Area Plan Commission on March 18th and April 15th determined that the variances requested **ARE NOT** use variances.

And it is staff's opinion regarding both variance requests that:

2. Granting these variances **WILL NOT** be injurious to the public health, safety, and general welfare of the community. There would be no fire hazard concerns regarding the rear yard and lot coverage requests.
3. Use and value of the area adjacent to the property included in the variance requests **WILL NOT** be affected in a substantially adverse manner. There is a golf course immediately to the rear of the site in question which will not be negatively affected.
4. The terms of the zoning ordinance are being applied to a situation that **IS** common to other properties in the same zoning district. This is an unimproved lot that meets all ordinance standards regarding area and width; there is nothing peculiar about its topography or physical shape.
5. Strict application of the terms of the zoning ordinance **WILL NOT** result in an unusual or unnecessary hardship as defined in the zoning ordinance. A slightly smaller house could be built on site without necessitating either variance request. The size of the proposed house, not the ordinance standards, is the issue.

Note: Questions 5a. and 5b. need only be answered if a hardship is found in Question 5 above.

5a. The hardship involved **IS** self-imposed or solely based on a perceived reduction of or restriction on economic gain. It is self-imposed because the variances are needed based solely on petitioners' desired house size and the desired lot.

5b. The variances sought **DO NOT** provide only the minimum relief needed to alleviate the hardship. There is no ordinance-imposed hardship, so there is no minimum relief from the standards.

STAFF RECOMMENDATION:

1. Denial
2. Denial